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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,805	09/22/2003	Paul C. Fowler	10039.0100	2166
39602 7590 11/03/2009 THE NOBLITT GROUP, PLLC 4800 NORTH SCOTTSDALE ROAD SUITE 6000 SCOTTSDALE, AZ 85251				
EXAMINER				
BROWN, SHEREE N				
ART UNIT		PAPER NUMBER		
2163				
MAIL DATE		DELIVERY MODE		
11/03/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/667,805

**Applicant(s)**

FOWLER ET AL.

**Examiner**

SHEREE N. BROWN

**Art Unit**

2163

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 5-9 and 11-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2, 5-9 and 11-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S5108)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This communication is responsive to the Request for Continued Examination (RCE) filed on 08/20/2009. Claims 1-2, 5-9 and 11-28 are pending and presented for examination. Claims 3-4 and 10 are canceled.
2. This action is made NON-FINAL.

***Continued Examination Under 37 CFR 1.114***

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/20/2009 has been entered.

***Response to Amendment***

4. Referring to the 35 USC 101 Rejections, examiner acknowledges the amendments/ arguments and therefore, examiner withdraws the rejection.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-2, 5-9 and 11-21 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Publication 20020133507 to Holenstein et al (hereafter Holenstein).

**Claim 1:**

Holenstein discloses method of synchronizing data in a multi-user computer network (See Abstract), comprising:

- accessing a record from a database for a first user ("**one node modifies FIELD1 of a record "record 1" See Paragraph 0222 & 0246 & Figure 2A);**

- accessing the record for a second user while the first user is accessing the record ("**... while another node simultaneously updates FIELD2 of the same record "record 1" See Paragraph 0222 & 0246 & Figure 2B);**

- requesting a first change to the record by the first user ("**if one node modifies FIELD1 of a record "record 1" See Paragraph 0222 & 0246 & Figure 2A) to a network server (See Paragraph 0080);**

- determining by the network server (See Paragraph 0080) whether the first change to the record is authorized ("**This form of collision resolution is acceptable ..."** See Paragraph 0222 & 0246 wherein "authorized" is equated with "Acceptable");

- and if the first change is authorized ("**This form of collision resolution is acceptable ..."** See Paragraph 0222 & 0246 wherein "authorized" is equated with "Acceptable"), updating the first change to the record for both the first user and the

second user substantially simultaneously while the first user and the second user are accessing the record ("if one node modifies FIELD1 of a record "record 1" while another node simultaneously updates FIELD2 of the same record "record 1" See Paragraph 0222 & 0246 & Figure 2A-2B).

**Claim 2:**

Holenstein discloses wherein the database is stored on a hard disk operating under control of the network server (See Figure 2A-2B & Paragraph 0080 & 0222 & 0246).

**Claim 5:**

Holenstein discloses wherein the step of making the first change to the record available to the second user is executed by the network server (See Figure 2A-2B & Paragraph 0080 & 0222 & 0246).

**Claim 6:**

Holenstein discloses wherein the first user operates a first workstation running application software which utilizes the record (See Figure 2A, Item 36 & Paragraph 0222 & 0246) and the second user operates a second workstation running application software which utilizes the record (See Figure 2A, Item 24 & Paragraph 0222 & 0246) at substantially the same time as the application software on the first workstation is utilizing the record ("if one node modifies FIELD1 of a record "record 1" while another node simultaneously updates FIELD2 of the same record "record 1" See Paragraph 0222 & 0246 & Figure 2A-2B).

**Claim 7:**

Holenstein discloses wherein the application software running on the second workstation executes using the first change to the record (“if one node modifies **FIELD1** of a record "record 1" *while another node simultaneously updates* **FIELD2** of the same record "record 1" See Paragraph 0222 & 0246 & Figure 2A-2B).

**Claim 8:**

Holenstein discloses requesting a second change to the record by the second user to the network server (“if one node modifies **FIELD1** of a record "record 1" See Paragraph 0222 & 0246 & Figure 2A); the network server checking for an authorization to make the second change to the record; and upon authorization by the network server (“This form of collision resolution is acceptable ...” See Paragraph 0222 & 0246 wherein “authorized” is equated with “Acceptable”), updating the second change to the record for both the first user and the second user substantially simultaneously while the first user and the second user are accessing the record (“if one node modifies **FIELD1** of a record "record 1" *while another node simultaneously updates* **FIELD2** of the same record "record 1" See Paragraph 0222 & 0246 & Figure 2A-2B).

**Claim 9:**

Holenstein discloses a method of synchronizing data in a multi-user computer network (See Abstract), comprising:

- accessing a record from a database for a first user (“one node modifies **FIELD1** of a record "record 1" See Paragraph 0222 & 0246 & Figure 2A);

- accessing the record for a second user while the first user is accessing the record ("... while another node simultaneously updates FIELD2 of the same record "record 1" See Paragraph 0222 & 0246 & Figure 2B);

- requesting a first change ("if one node modifies FIELD1 of a record "record 1" See Paragraph 0222 & 0246 & Figure 2A);

- processing the first change to the record through a controller of the database (See Figure 2A-2B & Paragraph 0080 & 0222 & 0246);

- and updating the first change to the record for both the first user and the second user substantially simultaneously while the first user and the second user are accessing the record ("if one node modifies FIELD1 of a record "record 1" while another node simultaneously updates FIELD2 of the same record "record 1" See Paragraph 0222 & 0246 & Figure 2A-2B).

Claim 11:

Holenstein discloses wherein the database is stored on a hard disk operating under control of a network server (See Figure 2A-2B & Paragraph 0080 & 0222 & 0246).

Claim 12:

Holenstein discloses wherein the step of requesting the first change to the record ("if one node modifies FIELD1 of a record "record 1" See Paragraph 0222 & 0246 & Figure 2A) is made to the network server (See Figure 2A-2B & Paragraph 0080 & 0222 & 0246).

Claim 13:

Holenstein discloses wherein the authorization for the first change to the record (“This form of collision resolution is acceptable ...” See Paragraph 0222 & 0246 wherein “authorized” is equated with “Acceptable”), is made by the network server (See Figure 2A-2B & Paragraph 0080 & 0222 & 0246).

**Claim 14:**

Holenstein discloses wherein the step of updating the first change to the record for both the first user and the second user is executed by the network server (See Figure 2A-2B & Paragraph 0080).

**Claim 15:**

Holenstein discloses wherein the first user operates a first workstation running application software which utilizes the record (See Figure 2A, Item 36 & Paragraph 0222 & 0246) and the second user operates a second workstation running application software which utilizes the record (See Figure 2A, Item 24 & Paragraph 0222 & 0246) at substantially the same time as the application software on the first workstation is utilizing the record (“if one node modifies FIELD1 of a record “record 1” while another node simultaneously updates FIELD2 of the same record “record 1” See Paragraph 0222 & 0246 & Figure 2A-2B).

**Claim 16:**

Holenstein discloses wherein the application software running on the second workstation executes using the first change to the record (“if one node modifies



FIELD1 of a record "record 1" *while another node simultaneously updates* FIELD2 of the same record "record 1" See Paragraph 0222 & 0246 & Figure 2A-2B).

**Claim 17:**

Holenstein discloses requesting a second change to the record by the second user ("if one node modifies FIELD1 of a record "record 1" See Paragraph 0222 & 0246 & Figure 2A); receiving an authorization to make the second change to the record ("This form of collision resolution is acceptable ..." See Paragraph 0222 & 0246 wherein "authorized" is equated with "Acceptable"); and updating the second change to the record for both the first user and the second user substantially simultaneously while the first user and the second user are accessing the record ("if one node modifies FIELD1 of a record "record 1" *while another node simultaneously updates* FIELD2 of the same record "record 1" See Paragraph 0222 & 0246 & Figure 2A-2B).

**Claim 18:**

Holenstein discloses A multi-user computer system (See Abstract), comprising:

- means for accessing a machine readable record from a database for a first user ("one node modifies FIELD1 of a record "record 1" See Paragraph 0222 & 0246 & Figure 2A);
- means for accessing the machine readable record for a second user while the first user is accessing the machine readable record ("... while another node simultaneously updates FIELD2 of the same record "record 1" See Paragraph 0222 & 0246 & Figure 2B);

- means for requesting a first change to the machine readable record by the first user ("if one node modifies FIELD1 of a record "record 1" See Paragraph 0222 & 0246 & Figure 2A);

- means for checking for an authorization to make the first change to the machine readable record ("This form of collision resolution is acceptable ..." See Paragraph 0222 & 0246 wherein "authorized" is equated with "Acceptable");

- and means the updating the first change to the machine readable record for both the first user and the second user substantially simultaneously while the first user and the second user are accessing the machine readable record, if the authorization is granted ("if one node modifies FIELD1 of a record "record 1" while another node simultaneously updates FIELD2 of the same record "record 1" See Paragraph 0222 & 0246 & Figure 2A-2B).

Claim 19:

Holenstein discloses a network server controlling the database (See Figure 2A-2B & Paragraph 0080 & 0222 & 0246); a first workstation coupled to the network server and running application software which utilizes the machine readable record (See Figure 2A, Item 36 & Paragraph 0222 & 0246); and a second workstation coupled to the network server and running application software which utilizes the machine readable record (See Figure 2A, Item 24 & Paragraph 0222 & 0246) at substantially the same time as the application software on the first workstation is utilizing the machine readable record ("if one node modifies FIELD1 of a record "record 1" while another node

simultaneously updates FIELD2 of the same record "record 1" See Paragraph 0222 & 0246 & Figure 2A-2B).

**Claim 20:**

Holenstein discloses wherein the application software running on the second workstation executes with the first change to the machine readable record upon receiving the first change to the machine readable record (**"if one node modifies FIELD1 of a record "record 1" while another node simultaneously updates FIELD2 of the same record "record 1" See Paragraph 0222 & 0246 & Figure 2A-2B).**

**Claim 21:**

Holenstein discloses means for requesting a second change to the machine readable record by the second user (**"if one node modifies FIELD1 of a record "record 1" See Paragraph 0222 & 0246 & Figure 2A);** means for receiving an authorization to make the second change to the machine readable record (**"This form of collision resolution is acceptable ..."** See Paragraph 0222 & 0246 wherein "authorized" is equated with "Acceptable"); and means for updating the second change to the machine readable record for both the second user and the first user substantially simultaneously while the second user and the first user are accessing the machine readable record (**"if one node modifies FIELD1 of a record "record 1" while another node simultaneously updates FIELD2 of the same record "record 1" See Paragraph 0222 & 0246 & Figure 2A-2B).**

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 22-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication 20020133507 to Holenstein et al (hereafter Holenstein) in view of US Patent Application 2002/0198755 to Birkner et al (hereafter Birkner)

**Claim 22:**

Holenstein discloses a method of utilizing data in a multi-user computer system (See Abstract), comprising:

- accessing a record from a database to perform on a first network node ("one node modifies FIELD1 of a record "record 1" See Paragraph 0222 & 0246 & Figure 2A);

- accessing the record to perform on a second network node while the first network node is accessing the record ("... while another node simultaneously updates FIELD2 of the same record "record 1" See Paragraph 0222 & 0246 & Figure 2B);

-processing a first change to the record on the first network node by the network server ("This form of collision resolution is acceptable ..." See Paragraph 0222 & 0246 wherein "authorized" is equated with "Acceptable");

- and updating the record according to the first change for both the first network node and the second network node substantially simultaneously while the first network node and the second network node are accessing the record (**"if one node modifies FIELD1 of a record "record 1" while another node simultaneously updates FIELD2 of the same record "record 1" See Paragraph 0222 & 0246 & Figure 2A-2B).**

Holenstein fails to explicitly teach *a first function and a second function*.

Birkner discloses wherein the first and second functions involve bidding (**"update the bid" See Birkner Paragraph 0046**) and estimation on a construction project (**See Birkner Paragraph 0013, 0017 & 0043**).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Birken teaching in the Holenstein system because it would allow the enhancement of incorporating the concepts of a bidding and a construction project into executing the system more effectively.

**Claim 23:**

The combination of Holenstein and Birkner discloses wherein the database is stored on a hard disk operating under control of a network server (**See Holenstein Figure 2A-2B & Paragraph 0080 & 0222 & 0246**).

**Claim 24:**

The combination of Holenstein and Birkner discloses wherein the authorization for the first change to the record (**"This form of collision resolution is acceptable ..." See Holenstein Paragraph 0222 & 0246** wherein **"authorized"** is equated with

"Acceptable"), is made by the network server (See Holenstein Figure 2A-2B & Paragraph 0080 & 0222 & 0246).

**Claim 25:**

The combination of Holenstein and Birkner discloses wherein the step of making the first change to the record accessible to the second network node is executed by the network server (See Holenstein Figure 2A-2B & Paragraph 0080).

**Claim 26:**

The combination of Holenstein and Birkner discloses wherein the first network node mid the second network node run application software which utilizes the record at substantially the same time ("if one node modifies FIELD1 of a record "record 1" while another node simultaneously updates FIELD2 of the same record "record 1" See Holenstein Paragraph 0222 & 0246 & Figure 2A-2B).

**Claim 27:**

The combination of Holenstein and Birkner discloses wherein the application software running on the second network node executes using the first change to the record ("if one node modifies FIELD1 of a record "record 1" *while another node simultaneously updates* FIELD2 of the same record "record 1" See Holenstein Paragraph 0222 & 0246 & Figure 2A-2B).

**Claim 28:**

The combination of Holenstein and Birkner discloses wherein the first and second functions involve bidding ("**update the bid**" See Birkner Paragraph 0046) and estimation on a construction project (See Birkner Paragraph 0013, 0017 & 0043).

***Response to Arguments***

9. Applicant's arguments with respect to claims 1-2, 5-9 and 11-28 have been considered but are moot in view of the new ground(s) of rejection.

***Contact Information***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEREE N. BROWN whose telephone number is (571)272-4229. The examiner can normally be reached on Monday-Friday 7:00 AM - 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (571) 272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sheree N. Brown  
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Examiner, Art Unit 2163  
October 31, 2009